IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5012 OF 2005

Mr.R.C.Bagrodia & Ors. ...Applicants.

V/s.

The State of Maharashtra & Anr. ...Respondents.

Mr.A.M.Sarogi for the Applicant.
Ms.S.V.Gajare,the A.P.P. for the State.

CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : 18th August, 2005.

P.C.:

1. Heard the learned advocate for the Applicants and the learned Additional Public Prosecutor for the State.

2. The Applicants have prayed for quashing of the Criminal Complaint pertaining to Case no.509/S of 2003, which is pending before the Learned Metropolitan Magistrate 20th Court at Mazgaon, Mumbai. The said complaint is under section 138 read with 141 of the Negotiable Instruments Act. In the said complaint, process came to be issued against the Applicants under section 138 read with 141 of the Negotiable Instruments Act. The learned advocate for the Applicants has submitted that the learned Magistrate erred in issuing process against the Applicants and the said process deserves to be recalled or quashed. He has further

submitted that if the said process is recalled or quashed, the complaint and the proceedings relating thereto would come to an end.

3. However, for the reasons recorded in my order dated 13th June, 2005 passed in Criminal Writ Petition No.213 of 2005 and order dated 21st June, 2005 passed in Criminal Application No.550 of 2005, I am of the opinion that the Applicant has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my opinion, it would be appropriate that the applicants prefer revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicants to prefer revision before the concerned Sessions Court. The learned advocate for the Applicants states that the necessary revision would be preferred within a period of five weeks from today. In view of this statement, the Trial Court shall not proceed with the trial for five weeks.

5. On the necessary revision being preferred by the applicants before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on

merits after hearing necessary parties.

6. The learned advocate for the Applicants has further submitted that Non Bailable Warrants have been issued against the Applicants by the Trial Court and he has prayed that the said Non Bailable Warrants be quashed. I am not inclined to quash the said Non Bailable Warrants as I am of the opinion that the appropriate course would be that the Applicants prefer an Application before the Trial Court for setting aside the said Non Bailable Warrants. The Applicants are granted liberty to prefer necessary application before the Trial Court for setting aside the Non Bailable Warrants. To enable the Applicants to prefer necessary application before the Trial Court, the said Non Bailable Warrants are stayed for a period of six weeks from today.

7. Application is disposed of.

(V.K.TAHILRAMANI,J.)